

EBA/DC/2017/195

18/07/2017

Decision of the European Banking Authority amending EBA Decision confirming that the unsolicited credit assessments of certain ECAs do not differ in quality from their solicited credit assessments (2016/C 266/05)

The Board of Supervisors of the European Banking Authority

Having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC¹ ('the EBA Regulation' and 'the EBA'),

Having regard to Article 138 of Regulation (EU) No 575/2013²,

Whereas:

- (1) Article 138 of Regulation (EU) No 575/2013 permits the use of unsolicited credit assessments of an External Credit Assessment Institution ('ECAI') for the determination of risk weights to be assigned to assets and off-balance sheet items for the purpose of the calculation of own funds requirements, subject to confirmation by the EBA that unsolicited credit assessments of that ECAI do not differ in quality from the solicited credit assessments of that same ECAI. In accordance with the same Article, the EBA is required to refuse or revoke this confirmation in particular if the ECAI has used an unsolicited credit assessment to put pressure on the rated entity to place an order for a credit assessment or other services. As a result, EBA Decision 2016/C 266/05 confirming

¹ OJ L331, 15.12.2010, p. 12.

² Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

that the unsolicited credit assessments of certain ECAIs do not differ in quality from their solicited credit assessments³ was published on 22 July 2016.

- (2) New ECAIs were registered or certified after the publication of EBA Decision 2016/C 266/05 for which it is also necessary to carry out the assessment referred to in Article 138 of Regulation (EU) No 575/2013. Further, one ECAI that was already registered at the time of issuance of Decision 2016/C 266/05, started issuing unsolicited ratings following the adoption of that Decision on unsolicited ratings. Finally, since the publication of Decision 2016/C 266/05, the CRA registration of the Feri EuroRating Services AG ECAI⁴ was withdrawn, as it no longer meets the definition of ECAI referred to in Article 4(1)(98) of Regulation (EU) No 575/2013. As a result of the above developments, it is necessary to carry out the assessment referred to in Article 138 of Regulation (EU) No 575/2013 also for the newly registered or certified ECAIs and for the one ECAI newly offering unsolicited credit assessments and to remove references to the body that ceased to qualify as an ECAI since the issuance of Decision 2016/C 266/05.
- (3) The ECAIs concerned have been informed of the EBA's intention to adopt this decision and be given an opportunity to express their views on it.
- (4) Decision 2016/C 266/05 should be amended accordingly,

Has decided as follows:

Article 1

Decision of the European Banking Authority No 2016/C 266/05 is amended as follows:

- (1) In the Annex the following ECAIs are added to the list:

- *Creditreform Rating AG*
- *Egan-Jones Ratings Co.*
- *HR Ratings de México, S.A. de C.V.*
- *INC Rating Sp. z o.o.*
- *modeFinance S.r.l.*
- *Rating-Agentur Expert RA GmbH*

- (2) In the Annex the following ECAI is deleted from the list:

Feri EuroRating Services AG.

³ OJ C 266, 22.7.2016, p. 4-7.

⁴ Press release ESMA71-99-376 of 29 March 2017

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Done at London, 18/07/2017

[signed]

Andrea Enria

Chairperson
For the Board of Supervisors